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June 26, 2007

VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Room TW-B204
Washington, DC 20554

**Re: Notice of Oral *Ex Parte* Communications:
WT Docket Nos. 06-150, 06-169; and 96-86; PS Docket No. 06-229
Service Rules for the 698-746, 747-762 and 777-792 MHz Bands; and**

**Docket No. 05-265 - Reexamination of Roaming Obligations of CMRS
Providers**

Dear Madam Secretary:

On behalf of Cellular South, Inc. ("Cellular South"),¹ and in accordance with Section 1.1206 of the Commission's rules, 47 C.F.R. Section 1.1206, we hereby provide you with notice of oral *ex parte* presentations in connection with the above-captioned proceedings. The presentations occurred on June 25, 2007 in meetings with the following Commission personnel:

Commissioner Jonathan S. Adelstein, and Barry Ohlson and Renee Crittendon, advisors to Commissioner Adelstein;

Commissioner Robert M. McDowell and advisor Angela E. Giancarlo; and

Erika Olsen, Wireless Advisor to Chairman Kevin J. Martin.

Attending the meetings on behalf of Cellular South, in addition to the undersigned, were Hu Meena, President, and Sherry Stegall, Senior Vice President.

¹ Cellular South is the nation's largest privately-owned wireless carrier serving all of Mississippi and portions of Alabama, Tennessee and Florida. Most of the area served by Cellular South is rural in nature.

The 700 MHz auction and service rules will likely determine whether or not high speed broadband service is available in rural areas of America on affordable terms, and whether consumers will have the ability to make full use of their wireless equipment as they travel outside their home carrier's service area. For this country to realize the enormous potential that is available through 700 MHz service Cellular South requests that the Commission take the following actions:

1. Implement Geographic Build-Out Requirements

The Commission's proposal to adopt a modified version of the geographic build-out proposal submitted by Rural Cellular Association ("RCA") is the proper course.² A "keep-what-you-use" standard combined with construction milestones during the initial license period provides the proper incentives for carriers to make prompt use of 700 MHz spectrum acquired in the auction. The proposal that a licensee provide coverage of 25 percent of the geographic area of the license within three years, 50 percent within five years, and 75% within eight years, is reasonable and allows carriers sufficient time to deploy 4G networks. Cellular South recognizes that some carriers consider three years from the initial license grant to be insufficient time to face a construction showing and while Cellular South disagrees, it would be a reasonable alternative for the Commission to provide either four years from the initial license grant or three years from the DTV Transition Date of February 17, 2009, before the first construction showing is due. Subsequent construction showings could be adjusted accordingly.

Geography-based performance requirements do not compel carriers to build-out any areas where service is considered to be uneconomic. All licensees will retain sole discretion to build or not build any area authorized under their licenses and will have the opportunity for a phased expansion of any service area through the last day of the initial license term.

2. Offer a Mix of Geographic License Sizes

A second and equally important aspect of the 700 MHz auction is that small carriers and new market entrants must have a realistic opportunity to participate because these are the companies who are most likely to build out and serve rural areas. Cellular South asks that the Commission adopt a 700 MHz band plan that includes the following:

- a. In the lower band, offer one paired frequency block of 12 MHz on a Cellular Market Area ("CMA") basis, and one paired frequency block of 12 MHz on an Economic Area ("EA") basis.
- b. In the upper band, subdivide the 22 MHz frequency block into two 11 MHz paired frequency blocks.

² *Report and Order and Further Notice of Proposed Rulemaking ("R&O and FNPRM")* in WT Docket No. 06-150, *et al*, (FCC 07-71), released April 27, 2007 at para. 212.

- c. After subdividing the upper band frequency block, make one of the two subdivided frequency blocks available with a geographic area smaller than REAG.³

3. Automatic Roaming Agreements for Voice and Data between Carriers

Consumers need and should have access to voice and data services at all levels, including 3G and higher, when they leave their home carrier's service area. Cellular South has constructed EVDO facilities in some portions of its service area but, for over a year, has been rebuffed by larger carriers with compatible networks whenever an automatic roaming agreement has been requested. Where the market fails, as it has here, the Commission must step in to allow consumers to use their wireless equipment to access other carriers' high speed networks.

As the Commission considers "open access" possibilities for the 700 MHz spectrum Cellular South believes it should include automatic roaming opportunities for consumers on all 700 MHz license blocks.

Cellular South requests that the Commission act in the 700 MHz proceeding to require all new 700 MHz licensees to negotiate in good faith to enter into automatic roaming agreements where it is technically feasible to do so. The Commission already has taken several steps in the 700 MHz proceeding to facilitate access to spectrum and provision of service to consumers⁴ and should decide in the remaining phase of the rulemaking to add a condition to all licenses granted to apprise licensees of the proceeding on automatic roaming rules.⁵

Cellular South supports the RCA position in the automatic roaming proceeding:

- The FCC should adopt rules that impose good faith, reciprocal bargaining obligations upon CMRS carriers such that voice, data and other wireless services offered over CMRS carriers' networks will be available automatically, where the networks are compatible and roaming between the carriers is technologically feasible, to any consumer who roams outside the areas that are licensed to the CMRS carrier whose service is purchased by the consumer.

³ Cellular South is a member of RCA which supported the Balanced Consensus Plan that requested two paired CMA frequency blocks, one of which would be in the upper band.

⁴ *R&O and FNPRM* at para. 37, *et seq.*

⁵ Docket No. 05-265 – "Reexamination of Roaming Obligations of CMRS Providers."

- The good faith negotiating standards should mirror those set forth in the *Satellite Home Viewer Improvement Act of 1999* (“SHVIA”), applicable to broadcasters and multichannel video programming distributors.
- In the event of perceived violations of the negotiation standard, CMRS providers would be subject to the Commission’s common carrier complaint processes for alleged failures to bargain in good faith.
- The FCC is asked to recognize the following actions or practices as a violation of the duty of a service provider (Negotiating Entity) to negotiate roaming agreements in good faith:
 1. Refusal by a Negotiating Entity to negotiate a roaming agreement;
 2. Refusal by a Negotiating Entity to designate a representative with authority to make binding representations on roaming agreements;
 3. Refusal by a Negotiating Entity to meet and negotiate roaming agreements at reasonable times and locations, or acting in a manner that unreasonably delays roaming agreement negotiations;
 4. Refusal by a Negotiating Entity to put forth more than a single, unilateral proposal;
 5. Failure of a Negotiating Entity to respond to a roaming agreement proposal of the other party, including the reasons for the rejection of any such proposal;
 6. Execution by a Negotiating Entity of an agreement with any party, a term or condition of which, requires that such Negotiating Entity not enter into a roaming agreement with any other service provider; and
 7. Refusal by a Negotiating Entity to execute a written roaming agreement that sets forth the full understanding of the service providers.

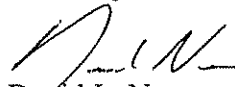
In summary, the Commission has before it a unique opportunity to expedite the availability of broadband services to rural America. Cellular South respectfully urges the Commission (i) to adopt geographic area build-out requirements for the 700 MHz licenses, (ii) to make available licenses with a mix of geographic license sizes, and (iii) to add a condition to 700 MHz licenses that informs licensees of the need to comply with rules adopted in the proceeding in which the Commission is reexamining the roaming obligations of CMRS providers. These actions will result in a successful auction and best assure that rural areas receive the benefits of

June 26, 2007

Page 5

high-speed wireless services.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Nace', with a stylized flourish at the end.

David L. Nace

Attorney for Cellular South, Inc.

cc: Chairman Kevin Martin (by email)
Commissioner Michael Copps (by email)
Commissioner Jonathan Adelstein (by email)
Commissioner Deborah Tate (by email)
Commissioner Robert McDowell (by email)
Erika Olsen (by email)
Bruce Gottlieb (by email)
Barry Ohlson (by email)
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